

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

FEDERAL-MOGUL CORPORATION,

Case No. 00-74524

Plaintiff,

vs.

PYLON MANUFACTURING
CORPORATION,

Defendant.

00-74524

COMPLAINT

JURY DEMANDED

LAWRENCE P. ZATKOFF,
MAGISTRATE JUDGE

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DETROIT

Plaintiff, Federal-Mogul Corporation ("Federal-Mogul"), as and for its complaint against Defendant, Pylon Manufacturing Corporation ("Pylon"), alleges as follows:

NATURE OF ACTION

This is a civil action for patent infringement under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. § 101 *et seq.* Federal-Mogul seeks preliminary and permanent injunctive relief, its damages, Pylon's profits, enhanced damages, and its attorney fees and costs.

PARTIES

1. Federal-Mogul is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business at 26555 Northwestern Highway, Southfield, Michigan 48034. Among other things, Federal-Mogul is a manufacturer and distributor of windshield wiper products and accessories. As to matters set forth herein, Federal-Mogul is the successor-in-interest to the Automotive Division of Cooper Industries, Inc. and related entities.

2. Upon information and belief, Pylon is a corporation organized and existing under the laws of the State of Delaware, with places of business at 24800 Denso Drive, Suite 255, Southfield, Michigan 48034 and 1341 Newport Center Drive West, Deerfield Beach, Florida 33442. Also, upon information and belief, Pylon is a wholly-owned subsidiary and is controlled by Qualitor, Inc., a Delaware corporation having a principal place of business at 24800 Denso Drive, Southfield, Michigan 48034. Pylon manufactures various windshield wiper products and accessories and has promoted and offered to sell its windshield wiper products and accessories in the United States, in the State of Michigan, and this Judicial District.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

4. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391 and 1400.

PLAINTIFF'S PATENT RIGHTS

5. On September 15, 1998, United States Patent No. 5,807,016 ("the '016 patent"), was duly and legally issued in the name of Richard Allen Herring, *et al.*, and entitled "Connection of Windshield Wiper Blades." The '016 patent was originally assigned to Cooper Technologies Company of Houston, Texas. A copy of the '016 patent is attached as Exhibit A.

6. Federal-Mogul has acquired by assignment all right, title, and interest in the '016 patent, including the right to enforce the '016 patent, to initiate legal proceedings against Pylon for infringement of the '016 patent, and to recover damages for past, present, and future infringement.

7. On March 23, 1999, United States Patent No. 5,885,023 ("the '023 patent"), was duly and legally issued in the name of James Patrick Witek, *et al.*, and entitled "Windshield Wiper Blade Connector." The '023 patent was originally assigned to Cooper Automotive Products, Inc. of Houston, Texas. A copy of the '023 patent is attached as Exhibit B.

8. Federal-Mogul has acquired by assignment all right, title, and interest in the '023 patent, including the right to enforce the '023 patent, to initiate legal proceedings against Pylon for infringement of the '023 patent, and to recover damages for past, present, and future infringement.

9. Federal-Mogul has sold, and continues to sell, windshield wiper products and accessories covered by the '016 and '023 patents.

DEFENDANT'S UNLAWFUL ACTIVITIES

10. Pylon has and continues to offer for sale, sell, make and/or use windshield wiper products and accessories in the United States, in the State of Michigan, and in this Judicial District.

11. Upon information and belief, Pylon has and continues to offer for sale, sell, make and/or use certain windshield wiper products under the names “Lexor” with “Talon Bracket,” “Pylon Universal Blade,” and “Car and Driver.” These accused products, and possibly others, are identical in every material respect to the patented design and construction of the ‘016 and/or ‘023 patents.

12. Upon information and belief, Pylon knowingly and willfully copied the construction, design, and features of the patented design and construction of the ‘016 and ‘023 patents.

FIRST CAUSE OF ACTION
Infringement Of The ‘016 And ‘023 Patents

13. Federal-Mogul hereby repeats and realleges each of the allegations contained in paragraphs 1 through 12, as if fully set forth herein.

14. Pylon has and continues to infringe, willfully infringe, induce the infringement of, and/or contribute to the infringement of the ‘016 and ‘023 patents in the United States, the State of Michigan, and this Judicial District.

15. Federal Mogul has been damaged by Pylon’s infringement, willful infringement, inducement of infringement, and/or contributory infringement of the ‘016 and ‘023 patents, and such willful infringement has and will continue to cause irreparable injury to Federal-Mogul unless it is restrained and enjoined by the Court.

PRAYER FOR RELIEF

WHEREFORE, Federal-Mogul hereby requests that this Court:

1. Enter judgment that Pylon has infringed the ‘016 and ‘023 patents;
2. Enter judgment that Pylon’s infringement of the ‘016 and ‘023 patents was intentional and willful;

3. Enter preliminary and permanent injunctions restraining and enjoining Pylon and its agents, servants, employees, and all persons acting thereunder, in concert with, or on its behalf, from selling, promoting, advertising, or marketing the accused products or any imitation thereof in the United States, the State of Michigan, and this Judicial District;

4. Enter judgment awarding Federal-Mogul the maximum damages permitted by law for its injuries incurred as a result of Pylon's patent infringement; Pylon's profits obtained as a result of the acts stated herein; and enhanced damages;

5. Enter judgment awarding Federal-Mogul its costs and expenses of this action as allowed by law, together with its reasonable attorney fees for bringing and prosecuting this action; and

6. Enter judgment awarding Federal-Mogul such other and further relief that the Court may deem just and equitable.

JURY DEMAND

Federal-Mogul demands trial by jury on all issues triable as of right by a jury.

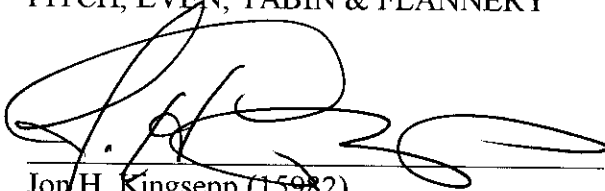
RESERVATION OF RIGHTS

Federal-Mogul's investigation of the matters alleged herein is ongoing. As to all matters alleged herein upon information and belief, all such matters have, or are likely to have, evidentiary support after a reasonable opportunity for further investigation or discovery. Federal-Mogul

expressly reserves the right to amend or supplement the claims set forth herein in accordance with Rule 15 of the Federal Rules of Civil Procedure.

FITCH, EVEN, TABIN & FLANNERY

Dated: OCTOBER 10, 2000



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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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